

235 Peachtree St., NE, Ste. 1900
Atlanta, Georgia 30303
877-219-5222 (Toll-Free)
404-885-6164 (Direct - ERM)
470-905-1450 (Fax)
emull@burkemoore.com
revans@burkemoore.com

The undersigned hereby certifies that on this date a copy of the within and foregoing **NOTICE OF FILING REMOVAL** was served on all counsel of record using the CM/ECF system, which will send e-mail notification to the attorneys of record:

This 4th day of April, 2023.

/s/Eric R. Mull
Eric R. Mull
Georgia Bar No. 556860
Attorneys for Defendant

-2-

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

ANTIOCH BAPTIST CHURCH NORTH

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

Fulton

(c) Attorneys (Firm Name, Address, and Telephone Number)

Alvin L. Kendall, The Kendall Law Firm, 1133 Cleveland Avenue, Atlanta, GA 30344; 678-257-2002

DEFENDANTS

CHURCH MUTUAL INSURANCE COMPANY

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input checked="" type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC 1332, 1441, 1446
Brief description of cause:
Alleged breach of an insurance contract.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
Exceeds \$75,000

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

04/ 4 /2023

/s/Eric R. Mull

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**ANTIOCH BAPTIST CHURCH
NORTH,**

Plaintiff,

v.

**CHURCH MUTUAL
INSURANCE COMPANY,**

Defendant.

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Civil Action File No:

**DEFENDANT CHURCH MUTUAL INSURANCE COMPANY’S ANSWER
AND AFFIRMATIVE DEFENSES**

COMES NOW Defendant Church Mutual Insurance Company (“Church Mutual”), by and through its counsel, and hereby files its Answer and Affirmative Defenses to Plaintiff’s Complaint, showing this Honorable Court the following:

FIRST AFFIRMATIVE DEFENSE

Plaintiff’s Complaint fails to state a claim against Church Mutual upon which relief can be granted, and therefore, must be dismissed.

SECOND AFFIRMATIVE DEFENSE

Plaintiff has failed to comply with all conditions precedent to under the Policy.

THIRD AFFIRMATIVE DEFENSE

Church Mutual shows that Plaintiff's Complaint should be dismissed because the insurance agreement upon which the claim for insurance proceeds was brought does not provide coverage for the damage to the property as alleged in the Complaint. As such, Plaintiff's Complaint must be dismissed.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's allegations of bad faith failure to pay are without any basis in fact or law and are barred since Church Mutual did not refuse to pay based upon an unreasonable interpretation of the Policy provisions as applied to the circumstances known, which represents a substantial legal basis for its payment and denial of Plaintiff's additional claim for damages. All actions taken by Church Mutual were made in good faith and, as such, any claim for bad faith penalties and attorney's fees cannot stand.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff has failed to complete the statutory requirements for a claim of bad faith pursuant to O.C.G.A. § 33-4-6.

SIXTH AFFIRMATIVE DEFENSE

The penalties set forth in O.C.G.A. § 33-4-6 are Plaintiff's exclusive remedies for alleged bad faith, and therefore, to the extent Plaintiff's Complaint

seeks extra-contractual damages not provided in O.C.G.A. § 33-4-6, Plaintiff's Complaint fails to state a cause of action and should be dismissed.

SEVENTH AFFIRMATIVE DEFENSE

No alleged act, omission, or breach on the part of Church Mutual caused Plaintiff's alleged damages.

EIGHTH AFFIRMATIVE DEFENSE

Upon information and belief, Plaintiff has failed to mitigate damages.

NINTH AFFIRMATIVE DEFENSE

Church Mutual hereby reserves the defenses of statute of limitations, repose, waiver, lack of jurisdiction, and improper venue.

TENTH AFFIRMATIVE DEFENSE

Church Mutual hereby reserves all of its rights to amend this Answer and/or supplement its Affirmative Defenses in accordance with any additional information developed during the

ELEVENTH AFFIRMATIVE DEFENSE

In response to the specific allegations contained in the Plaintiff's Complaint, and while at all times reserving the defenses previously raised by Defendant as well as those which may be added by amendment in the future after further discovery and investigation, Defendant states the following:

PARTIES

1.

Admitted.

2.

In answer to paragraph 2 of Plaintiff's Complaint, Defendant admits that Church Mutual is an insurance company licensed to do business in Georgia and may be personally through its registered agent, Corporation Service Company, located at 2 Sun Court, Suite 400, Peachtree Corners, Georgia 30092. In further response to paragraph 2 of Plaintiff's Complaint, Defendant admits that the United States District Court for the Northern District of Georgia, Atlanta Division, has jurisdiction over the subject matter alleged in Plaintiff's Complaint and that venue is proper the United States District Court for the Northern District of Georgia, Atlanta Division.

FACTS COMMON TO ALL COUNTS

3.

Defendant admits that Defendant issued Policy No. 0027024-02-061796 to Antioch Baptist Church North with effective dates of December 8, 2019 to December 8, 2020.

4.

Denied.

5.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and places Plaintiff on strict proof of same.

6.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and places Plaintiff on strict proof of same.

**COUNT ONE
BREACH OF CONTRACT**

7.

Defendant incorporates by reference their defenses and responses to the preceding paragraphs as if fully set forth herein.

8.

In answer to paragraph 8 of Plaintiff's Complaint, Church Mutual states that the Policy is the best evidence of what it contains and speaks for itself.

9.

In answer to paragraph 9 of Plaintiff's Complaint, Church Mutual admits that on May 5, 2021, Plaintiff provided notice of a claim for property damage arising from an alleged May 3, 2021 storm event.

10.

Denied.

11.

Denied.

COUNT TWO
VIOLATION OF O.C.G.A. § 33-4-6 – BAD FAITH

12.

Defendant incorporates by reference their defenses and responses to the preceding paragraphs as if fully set forth herein.

13.

In answer to paragraph 13 of Plaintiff's Complaint, Church Mutual admits that on May 5, 2021, Plaintiff provided notice of a claim for property damage arising from an alleged May 3, 2021 storm event. Defendant denies the second sentence of Paragraph 13 of Plaintiff's Complaint.

14.

Denied.

15.

Denied.

16.

Defendant denies Plaintiff's "prayer for relief," which is found immediately following paragraph 15 of Plaintiff's Complaint.

17.

Defendant denies any allegations to which it has not otherwise specifically responded.

WHEREFORE having responded to the allegations of Plaintiff's Complaint, Church Mutual respectfully prays that:

- (1) Plaintiff's Complaint be dismissed against Church Mutual;
- (2) Church Mutual be discharged with all costs cast upon Plaintiff for attorney's fees and costs of litigation; and
- (3) Church Mutual be awarded any other further relief as the Court may deem just and proper.

Respectfully submitted this 4th day of April, 2023.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

**BURKE MOORE LAW GROUP,
LLP**

/s/ Eric R. Mull

Eric R. Mull

Georgia Bar No. 556860

Reid Elizabeth Evans

Georgia Bar No. 896865

Counsel for Church Mutual

235 Peachtree Street
Suite 1900
Atlanta, Georgia 30303
Tel: (877) 219-5222
Fax: (404) 905-1450
emull@burkemoore.com
revans@burkemoore.com

Counsel for Defendant certifies that this pleading complies with Local Rule 7.1D.

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**ANTIOCH BAPTIST CHURCH
NORTH,**

Plaintiff,

v.

**CHURCH MUTUAL
INSURANCE COMPANY,**

Defendant.

Civil Action File No:

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing **DEFENDANT CHURCH MUTUAL INSURANCE COMPANY’S ANSWER AND AFFIRMATIVE DEFENSES** upon all parties to this matter via U.S. First Class Mail addressed to the following counsel of record:

Alvin Kendall
The Kendall Law Firm
1133 Cleveland Avenue
Atlanta, Georgia 30344
akendall@kendalllawfirm.com

This 4th day of April, 2023.

/s/ Eric R. Mull

Eric R. Mull

Georgia Bar No. 556860

Attorney for Church Mutual

235 Peachtree Street
Suite 1900
Atlanta, Georgia 30303
Tel: (877) 219-5222
Fax: (404) 905-1450
emull@burkemoore.com

Counsel for Defendant certifies that this pleading complies with Local Rule 7.1D.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ANTIOCH BAPTIST CHURCH)
NORTH,)

Plaintiff,)

V.

Civil Action File No:

**CHURCH MUTUAL
INSURANCE COMPANY,**

Defendant.)

NOTICE OF REMOVAL

NOW COMES Defendant Church Mutual Insurance Company, a foreign company (“Church Mutual”), and pursuant to 28 U.S.C. 1446 gives notice as follows:

1.

Church Mutual is the Defendant in a civil action brought in Superior Court of Gwinnett County, which is within the Atlanta Division of the United States District Court for the Northern District of Georgia.

2.

Plaintiff Antioch Baptist Church North (“Antioch Baptist”) is a Georgia church located at 540 Cameron M. Alexander Boulevard, NW, Atlanta, Georgia.

3.

Defendant Church Mutual is a corporation organized and existing under the laws of the State of Wisconsin with its principal place of business in the State of Wisconsin, as it was at the commencement of the said Civil Action and as it has been thereafter, and at no time has it been organized and existing under the laws of the State of Georgia, nor at any time has its principal place of business been located in the State of Georgia.

5.

This case is a suit for the alleged breach of an insurance contract, seeking alleged damages in excess of Seventy-Five Thousand Dollars (\$75,000.00).

6.

Defendant Church Mutual shows that the amount in controversy in this case exceeds the sum of Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs which is supported by Plaintiff's claim for insurance coverage for damage to their property, which Plaintiff alleges is no less than \$524, 200.00, and for bad faith penalties pursuant to O.C.G.A. § 33-4-6. [Complaint, p. 11 and 14]. Church Mutual alleges in good faith, after a reasonable attempt to determine the identities of Plaintiff's members, that Church Mutual is diverse from Plaintiff's

members. This Court thus has original jurisdiction under 28 U.S.C. 1332 and, accordingly, this case may be removed to this Court pursuant to 28 U.S.C. 1441(a).

7.

Defendant Church Mutual shows that this case was filed on March 3, 2023 in the Superior Court of Gwinnett County, and that Defendant Church Mutual was served with the Summons and Complaint on March 14, 2023. Defendant Church Mutual shows that this Notice of Removal is filed within thirty (30) days from the date of service on Defendant.

8.

Defendant Church Mutual attaches hereto copies of the entire record in Superior Court of Gwinnett County, as served upon Defendant.

9.

Defendant Church Mutual has given written notice of the filing of this Notice to the Plaintiff by notifying its attorneys of record, Alvin L. Kendall. Defendant Church Mutual has filed a written notice with the Clerk of Superior Court of Gwinnett County, a copy of which is attached.

10.

The undersigned has read this Notice of Removal, and to the best of the undersigned's knowledge, information and belief, formed after reasonable inquiry, it is well-grounded in fact and is warranted by existing law, and that it is not

interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

Respectfully submitted,

BURKE MOORE LAW GROUP, LLP

/s/Eric R. Mull

Eric R. Mull

Georgia Bar No. 556860

Reid Elizabeth Evans

Georgia Bar No. 896865

Counsel for Church Mutual

235 Peachtree Street
Suite 1900
Atlanta, Georgia 30303
877-219-5222 (Toll-Free)
404-885-6164 (Direct - ERM)
470-905-1450 (Fax)
emull@burkemoore.com
revans@burkemoore.com

Counsel for Defendant certifies that this pleading complies with Local Rule 7.1D.

235 Peachtree St., NE, Ste. 1900
Atlanta, Georgia 30303
877-219-5222 (Toll-Free)
404-885-6164 (Direct - ERM)
470-905-1450 (Fax)
emull@burkemoore.com



Notice of Service of Process

null / ALL
Transmittal Number: 26566583
Date Processed: 03/16/2023

Primary Contact: Sheila R. Klug
Church Mutual Insurance Company
3000 Schuster Ln
Merrill, WI 54452-3863

Electronic copy provided to: Cynthia Brandt
Christopher Grunenwald
Melissa Fitzgerald
Gonzalo Sanchez Silvela

Entity: Church Mutual Insurance Company
Entity ID Number 3151001

Entity Served: Church Mutual Insurance Company

Title of Action: Antioch Baptist Church North vs. Church Mutual Insurance Company

Matter Name/ID: Antioch Baptist Church vs. Church Mutual Insurance Company (13735115)

Document(s) Type: Summons/Complaint

Nature of Action: Contract

Court/Agency: Gwinnett County Superior Court, GA

Case/Reference No: 23-A-01722-8

Jurisdiction Served: Georgia

Date Served on CSC: 03/14/2023

Answer or Appearance Due: 30 Days

Originally Served On: CSC

How Served: Personal Service

Sender Information: The Kendall Law Firm
678-257-2002

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

CIVIL ACTION NO. 23-A-01722-8DATE FILED 3/3/23

ATTORNEY OR PLAINTIFF(S), ADDRESS & TELEPHONE NUMBER

ALVIN L. KENDALL, ESQ.
1133 CLEVELAND AVE
Atlanta, Ga. 30344

NAME, ADDRESS & TELEPHONE # OF PARTY TO BE SERVED

CHURCH MUTUAL INS. CO.
% CORPORATION SERVICE CO.
2 SUN COURT, SUITE 400
PEACHTREE CORNERS, GA.
30092

[] MAGISTRATE [] STATE [X] SUPERIOR - COURT
 GWINNETT COUNTY, GEORGIA

ANTIOCH BAPTIST CHURCH
NORTH

PLAINTIFF(S)

VS CHURCH MUTUAL
INSURANCE COMPANY
 DEFENDANT(S)

GARNISHEE

Other attached documents to be served: _____

SHERIFF'S ENTRY OF SERVICE

I HAVE THIS DAY SERVED THE WITHIN ACTION AND SUMMONS AS FOLLOWS:

[] PERSONAL Upon the following named defendant:

[] NOTORIOUS Upon defendant _____

By leaving a copy of the action and summons at the most notorious place of abode in the county.

Delivered the same to _____ described as follows: approximate age

yrs; approximate weight _____ pounds; approximate height _____ feet and _____ inches, domiciled at residence of the defendant.

[X] CORPORATION Upon corporation Church Mutual Ins. Co.

By serving _____, in charge of the office and place of business of the corporation in this county.

By serving William Smith, its registered agent.

[] TACK & MAIL By posting a copy of the same to the door of the premises designated in the affidavit and/or summons, and on the same day of such posting, by depositing a true copy of the same in the United States mail First Class mail, in an envelope properly addressed to the defendant(s) at the address shown in the summons, containing adequate notice to the defendant(s) to answer said summons at the place stated in the summons.

[] NON EST Did not serve because after a diligent search the defendant could not be found in the jurisdiction of the court.

This 14 day of March, 2023.

SHERIFF DOCKET _____ PAGE _____

TIME: _____ M.

W. Higgins
 DEPUTY

IN THE SUPERIOR COURT OF GWINNETT COUNTY

STATE OF GEORGIA

**ANTIOCH BAPTIST
CHURCH NORTH**

PLAINTIFF

CIVIL ACTION 23-A-01722-8
NUMBER: _____

VS.

**CHURCH MUTUAL
INSURANCE COMPANY**

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

**Alvin L. Kendall, Esq.
1133 Cleveland Avenue
Atlanta, Georgia 30344**

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This _____ day of 3rd day of March, 2023, 20____.

Tiana P. Garner
Clerk of Superior Court

Kayla Costanza

By _____
Deputy Clerk

INSTRUCTIONS: Attach addendum sheet for additional parties if needed, make notation on this sheet if addendum sheet is used.

THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

ANTIOCH BAPTIST
CHURCH NORTH

Plaintiffs

V

CHURCH MUTUAL INSURANCE
COMPANY

Defendants

*

*

*

CIVIL ACTION FILE NO. 23-A-01722-8

*

*

*

*

COMPLAINT FOR DAMAGES

COMES NOW, ANTIOCH BAPTIST CHURCH NORTH, Plaintiffs herein and file this
Complaint for Damages and shows the Court as follows:

1.

Plaintiff is a Baptist church located at 540 Cameron M. Alexander Boulevard, N.W.
Atlanta, Georgia 30318.

2.

Defendant CHURCH MUTUAL INSURANCE COMPANY (hereinafter referred to as
"Church Mutual") is an insurance company licensed to do business in Georgia and may be
personally served with a copy of this Summons and Complaint by serving its registered agent
Corporation Service Company, 2 Sun Court, Suite 400, Peachtree Corners, Georgia 30092.
Defendant Church Mutual is subject to the venue and jurisdiction of this Court.

FACTS COMMON TO ALL COUNTS

3.

Plaintiff entered into a property and casualty insurance contract with the Defendant on or about December 8, 2020, being Policy Number 0027024 02-061796 (herein after referred to as the "Policy").

4.

The Policy period was from December 8, 2020 to December 8, 2021.

5.

On or about March 3, 2021, Plaintiff suffered roof damage due to a storm in the Atlanta area.

6.

The roof damage was covered under the Policy.

COUNT ONE

BREACH OF CONTRACT

7.

Plaintiff re-alleges paragraphs 1 – 6 as if they were fully stated herein.

8.

Defendant agreed in the Policy contract to pay Plaintiff the repair cost for storm damage to the roof of the church.

9.

Plaintiff timely submitted its claim for roof damage to the Defendant.

10.

Defendant failed to pay the claim in full thereby breaching the Policy contract.

11.

Plaintiff is entitled to the repair cost in the amount of at least \$524,200.00.

COUNT TWO

VIOLATION OF O.C.G.A. §33-4-6 - BAD FAITH

12.

Plaintiff re-alleges paragraphs 1 –11 as if they were fully stated herein.

13.

Plaintiff initiated a clam with Defendant on May 5, 2021. To date Defendant has failed to pay the claim.

14.

Defendant has acted in bad faith.

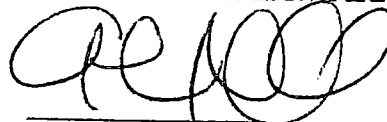
15.

Pursuant to O.C.G.A. §33-4-6, Plaintiff is entitled to statutory fee and reasonable attorney's fees.

WHEREFORE, Plaintiff prays as follows:

- (a) That service of process issue as authorized by law;
- (b) That Plaintiff be awarded damages in an amount proven at trial;
- (c) That Plaintiff be awarded attorney's fees and expenses of litigation;
- (d) That all issues be tried by jury; and
- (e) For any other relief the Court deems necessary and proper.

Respectfully submitted,
THE KENDALL LAW FIRM



Alvin L. Kendall
Georgia Bar No. 414040
Counsel for Plaintiff
1133 Cleveland Avenue
Atlanta, Georgia 30344
678-257-2002
Fax 678-257-1730
akendall@kendalllawfirm.us

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**ANTIOCH BAPTIST CHURCH
NORTH,**

Plaintiff,

v.

**CHURCH MUTUAL
INSURANCE COMPANY,**

Defendant.

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Civil Action File No:

DEFENDANT'S RULE 3.3 CERTIFICATE OF INTERESTED PERSONS

1.

**The undersigned Counsel of Record to this action certify that the following
is a full and complete list of all parties in this action:**

Plaintiff: Antioch Baptist Church North

Defendant: Church Mutual Insurance Company

2.

**The undersigned further certify that the following is a full and complete
list of all other persons, associations of persons, firms, partnerships, or
corporations (including those related to a party as a subsidiary, conglomerate,
affiliate, or parent corporation) having either a financial interest in or other**

interest which could be substantially affected by the outcome of this particular case.

Defendant Church Mutual Insurance Company:

Church Mutual Insurance Company, S.I. CMIC is owned by Church Mutual Holding Company. There are no subsidiaries of Church Mutual Insurance Company, S.I.

3.

The undersigned further certify that the following is a full and complete list of all persons serving as attorneys for the parties in this proceeding.

Plaintiff:

Alvin Kendall
The Kendall Law Firm
1133 Cleveland Avenue
Atlanta, Georgia 30344
678-257-2002
678-257-1730 (Fax)
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revans@burkemoore.com

Respectfully submitted,

BURKE MOORE LAW GROUP, LLP

/s/Eric R. Mull

Eric R. Mull

Georgia Bar No. 556860

Reid Elizabeth Evans

Georgia Bar No. 896865

Counsel for Church Mutual

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Counsel for Defendant certifies that this pleading complies with Local Rule 7.1D.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
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**ANTIOCH BAPTIST CHURCH
NORTH,**

Plaintiff,

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**CHURCH MUTUAL
INSURANCE COMPANY,**

Defendant.

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Civil Action File No:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **DEFENDANT'S RULE 3.3 CERTIFICATE OF INTERESTED PERSONS** was served on all counsel of record using the CM/ECF system, which will send e-mail notification to attorneys:

Alvin Kendall
The Kendall Law Firm
1133 Cleveland Avenue
Atlanta, Georgia 30344
akendall@kendalllawfirm.com

This 4th day of April, 2023.

BURKE MOORE LAW GROUP, LLP

/s/Eric R. Mull

Eric R. Mull

Georgia Bar No. 556860

Counsel for Church Mutual

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